

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

CIVIL ACTION NUMBER 1:17-CV-00184-CCE-LPA

**BARRY HONIG**, an individual,

*Plaintiff,*

**v.**

**ROBERT LADD**, an individual; **MGT CAPITAL INVESTMENTS, INC.**, a Delaware corporation; **TERI BUHL**, an individual; and **DOES 1-20**,

*Defendants.*

**MOTION FOR  
EXTENSION OF TIME TO FILE  
REPLY BRIEF AND FOR LEAVE TO  
EXCEED L.R. 7.3(d)(1) WORD LIMIT**

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and Local Rule 6.1(a), Defendants Robert Ladd and MGT Capital Investments, Inc. (“MGT”) through counsel, move the Court to [1] extend by eleven (11) days the time within which Mr. Ladd and MGT may file their reply brief in further support of their motion to dismiss, up to and including 18 August 2017, and [2] grant Mr. Ladd and MGT leave to file a reply brief of up to 5,500 words, in excess of the limit set by the Court in LR 7.3(d)(1). We have conferred with counsel for plaintiff Barry Honig and defendant Teri Buhl, neither of whom oppose this motion. In support of this motion, Mr. Ladd and MGT respectfully show the following:

1. Plaintiff Barry Honig filed the Complaint in this action on 3 March 2017. (DE 1). On 5 June 2017, Mr. Ladd and MGT filed a motion to dismiss, pursuant to Fed. R. Civ. P. 12(b)(3) and 12(b)(6). (DE 19-21). On 5 July 2017, defendant Teri

Buhl filed a motion to dismiss, pursuant to Fed. R. Civ. P. 12(b)(2), 12(b)(3) and 12(b)(6). (DE 27-30).

2. On 17 July 2017, pursuant to the schedule approved and ordered by the Court (DE 17), Mr. Honig filed a brief in opposition to Ladd and MGT's motion to dismiss ("Opposition Brief"). (DE 31-33).

3. Pursuant to the same schedule, Mr. Ladd and MGT's reply brief in further support of their motion to dismiss was to be due on 7 August 2017. (DE 17).

4. On 26 July 2017, Mr. Honig filed a brief in opposition to Ms. Buhl's motion to dismiss. (DE 34-36).

5. On 28 July 2017, without seeking leave from the court or consent from the parties, Mr. Honig filed a "Supplemental Brief in Opposition to Defendants Robert Ladd and MGT Capital Investments, Inc.'s Motion to Dismiss" (the "Supplemental Brief"), with two supporting declarations. (DE 37). The supporting declarations had also been filed in connection with Mr. Honig's opposition to Ms. Buhl's motion, two days prior.

6. The Supplemental Brief was submitted eleven (11) days after the end of "the time in which Honig may file his opposition brief" to Mr. Ladd and MGT's motion to dismiss, according to the previously agreed and ordered schedule. (DE 17).

7. The Supplemental Brief includes arguments not made in Mr. Honig's Opposition Brief, and alleges new facts that Mr. Honig claims bear on the resolution of Mr. Ladd and MGT's motion.

8. The length of the Supplemental Brief is approximately 1,100 words. The length of Mr. Honig's Opposition Brief is approximately 9,000 words, at or near the word limit.

9. To address the new arguments and factual allegations in the Supplemental Brief, Mr. Ladd and MGT respectfully request an extension of time equal to the amount of time between the filing of Mr. Honig's Opposition Brief and the filing of his Supplemental Brief, and an expansion of the word limit that is no greater than the number of additional words in Mr. Honig's Supplemental Brief.

10. Counsel for Mr. Ladd and MGT has conferred with counsel for Mr. Honig and Ms. Buhl, neither of whom oppose this motion.

11. This motion is made in good faith and not for the purpose of delay. The extension sought will not unduly delay the progress of this case, but rather will facilitate the Court's efficient consideration of this matter.

For these reasons, Ladd and MGT respectfully request that the Court grant the motion and thus: [1] extend by eleven (11) days the time within which Ladd and MGT may file their reply brief in further support of their motion to dismiss, up to and including 18 August 2017, and [2] grant Ladd and MGT leave to file a reply brief of 5,500 words.

*[Signatures on following page]*

This the 1st day of August, 2017.

/s/ John P. Coffey  
John P. Coffey

/s/ Darren A. LaVerne  
Darren A. LaVerne

KRAMER LEVIN NAFTALIS &  
FRANKEL LLP  
1177 Avenue of the Americas  
New York, NY 10036  
Telephone: (212) 715-9100  
Facsimile: (212) 715-8000

/s/ Jonathan C. Krisko  
Jonathan C. Krisko  
N.C. State Bar No. 28625

/s/ Erik R. Zimmerman  
Erik R. Zimmerman  
N.C. State Bar No. 50247

ROBINSON, BRADSHAW & HINSON, P.A.  
1450 Raleigh Road, Suite 100  
Chapel Hill, NC 27517  
Telephone: (919) 328-8800  
Facsimile: (919) 328-8790

*Attorneys for Defendants Robert Ladd & MGT Capital Investments, Inc.*

## **CERTIFICATE OF SERVICE**

I hereby certify that on this day, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

David E. Fox  
N.C. State Bar No. 10332  
MOORE & VAN ALLEN PLLC  
100 North Tryon Street, Suite 4700.  
Charlotte, NC 28202-4003  
(919) 286-8069  
davidfox@mvalaw.com

Charles J. Harder  
Ryan J. Stonerock  
HARDER, MIRELL & ABRAMS LLP  
132 S. Rodeo Drive, Fourth Floor  
Beverly Hills, CA 90212  
charder@hmafirm.com  
rstonerock@hmafirm.com

*Attorneys for Plaintiff Barry Honig*

Eric M. David  
N.C. State Bar No. 38118  
BROOKS, PIERCE, MCLENDON, HUMPHREY & LEONARD LLP  
1700 Wells Fargo Capital Center  
150 Fayetteville Street  
Raleigh, NC 27601  
edavid@brookspierce.com

Kimberly M. Marston  
N.C. State Bar No. 46231  
BROOKS, PIERCE, MCLENDON, HUMPHREY & LEONARD LLP  
2000 Renaissance Plaza  
230 North Elm Street  
Greensboro, NC 27401  
kmarston@brookspierece.com

Michael Tremonte  
Erica A. Wolff  
SHER TREMONTE  
90 Broad Street, 23rd Floor  
New York, NY 10004  
mtremonte@shertremonte.com  
ewolff@shertremonte.com

*Attorneys for Defendant Teri Buhl*

This 1st day of August, 2017.

/s/ Darren A. LaVerne  
Darren A. LaVerne